

### **III. REMARKS**

Claims 1-13 are pending in this application. Claims 14 and 15 were previously cancelled. Applicants do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Furthermore, Applicants reserve the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is requested.

Entry of this Response is proper under 37 C.F.R. §1.116(b) because the Response: (a) places the application in condition for allowance as discussed below; (b) does not raise any new issues requiring further search and/or consideration; and (c) places the application in better form for appeal. Accordingly, Applicants respectfully request entry of this Amendment.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilurzo et al. (U.S. 6,434,526), hereinafter “Cilurzo”, in view of Mishelevich et al. (U.S. 6,434,547), hereinafter “Mishelevich”. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cilurzo, in view of Mishelevich and in further view of Frison et al. (U.S. 6,049,789), hereinafter “Frison.”

With respect to claim 1, Applicants submit that Cilurzo fails to disclose each and every feature of the claimed invention as is required under 103(a), and neither Mishelevich nor Frison remedy this glaring deficiency in Cilurzo. For example, Cilurzo,

Mishelevich and Frison do not teach or suggest processing the received input information and rendering output information available wherein the processing comprises *determining one of a number of words in the dictation and a number of edition operations during a transcription of the dictation* along with determining software license settlement information from the output information. (emphasis added)(See claim 1, as similarly recited in claims 6 and 10.)

Applicants respectfully contend that the Office is making unsupported allegations in regards to the cited art (i.e., Cilurzo, Mishelevich, and/or Frison) as it relates to the cited limitations (above).

Interpreting Cilurzo, Mishelevich, and Frison only for the purposes of this response, Applicants submit that Cilurzo merely discloses speech recognition software in combination with application specific software on a communications network. Abstract. There is simply no teaching, or suggestion, in Cilurzo of any type of determination of number or words and/or number of edition operations during a transcription process that ties to a payment of a software license fee. In fact, the Office admits this deficiency in Cilurzo. “Cilurzo et al. did not teach a system which determines the number of words being transcribed or the number of correction made.” (sic) Office Action, page 5, item 4.

Yet, the Office also alleges that Cilurzo discloses “[d]etermining a number of words in dictation (column 4, lines 42-48).” Office Action, page 5, item 4. Regardless of this apparent contradictory position, Applicants have reviewed the cited section in

Cilurzo, and Cilurzo in its entirety, and submit that the limitation is not taught or suggested. The cited section (i.e., column 4, lines 42-48) states:

“Once speech data has been received by the speech engine 304, the speech recognition algorithm will apply a trigram statistical model, which will determine the proper context of three words appearing in sequence and then after selecting the possible words, perform a further detailed analysis of the remaining likely candidates be above to be accommodated at any given time.”

Applicants respectfully submit that this cited section is completely devoid of *any* type of a suggestion of the aforementioned determining limitation that employs word count or quantity of edition operations during transcription, as in the claimed invention.

The Office also turns to Mishelevich, specifically citing column 3, lines 1-3 and 30-67 of Mishelevich, for disclosure of the admittedly missing limitation in Cilurzo. The Office, in referring to Mishelevich, alleges at the end item 4 on page 5 of the Office Action:

“According to Mishelevich et al., data being entered is quantified as points (column 3, lines 1-3, 30-67). Therefore, it would have been obvious for one skilled to provide voice-to-text software/service that includes word count because, according to Mishelevich et al., such feature would facilitate the billing service of the system (column 3, lines 9-10).”

Even assuming *arguendo* that the first sentence from the above quotation is accurate, the second conclusory sentence in the quotation made by the Office (above) is completely without merit. There is nothing in Mishelevich, either explicit or implicit, that shows a teaching of determining number of words in a dictation and/or number of edition operations during a transcription of the dictation. Word count and/or counting

edits during transcription is not considered in Mishelevich because the point system of Mishelevich is merely used to quantify/qualify the work associated with obtaining information, typically in a doctor/patient environment, and is wholly unrelated to transcription services. As explained in the paragraphs found at column 11, lines 23-67, and column 12, line 1-37, the point system of Mishelevich is related to how well a doctor, typically, examines/obtains information from a patient and how appropriately and efficiently this information is dictated. "Points are allocated to the entered data to facilitate subsequent decision making." Abstract. "The points or other quantitative measure of the data input may serve to measure the qualitative and quantitative value of tasks performed by a user. For instance, a physician examining a patient, may be given points based on extensiveness of the patient evaluation and the complexity of the diagnosis. He may also be given points based on the severity of the patient's illness or the amount of expertise required of the physician." Col. 3, lines 11-18. "[A]ssociated with one or more points depending on the quantity of quality of **the work associated with obtaining such information.**" (emphasis added) Col. 11, lines 25-27. As discussed throughout Mishelevich, the point system is related to the level of quality/quantity of work done (i.e., medical examinations) by doctors. There is nothing in these sections, or Mishelevich as a whole, to suggest that the edition operations and/or word counting is done, nor is it further suggested to relate this type of quantification to automatic payment of a software license fee whatsoever. So even assuming *arguendo* that it is obvious to combine Mishelevich with Cilurzo, to do so would not anticipate the

claimed invention. Further, Frison does not remedy the deficiency of both Mishelevich and Cilurzo.

Accordingly, Applicants submit that there is no disclosure or suggestion in either Cilurzo, Mishelevich, or Frison of a method that includes steps comprising processing the received input information and rendering output information available wherein the processing comprises determining one of a number of words in the dictation and a number of edition operations during a transcription of the dictation along with determining software license settlement information from the output information, with respect to claim 1. Therefore, Applicants respectfully request withdrawal of the rejection.

In the Office Action, independent claims 6 and 10 are rejected under the same rationale as claim 1. As a result, Applicants herein incorporate the arguments submitted above with respect to claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection.

With respect to dependent claims 2-5, 7-9 and 11-13, Applicants herein incorporate the arguments presented above with respect to the independent claims from which the claims depend. The dependent claims are believed to be allowable based on the above arguments, as well as for their own additional features.

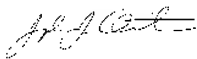
Further, in the Office Action the Office provides its own interpretation of the invention in the second full paragraph, under item 4, on page 4 of the Office Action. In response, Applicants respectfully disagrees with the interpretation by the Office made in

the referenced paragraph. Applicants carefully point out that the claimed invention speaks for itself *in the claims*, as written. Further, for example, any statements of interpretation, summaries of what the invention is ‘about’, and/or statements such as the software “happens to be voice/speech recognition software” made by the Office, in general, are not accepted as a substitute for the actual claim language.

#### IV. CONCLUSION

In light of the above remarks, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants’ undersigned representative at the number listed below.

Respectfully submitted,



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